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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			EXAMINER NGUYEN, TOAN D	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

09/647,964

**Applicant(s)**

SAKODA ET AL.

**Examiner**

TOAN D. NGUYEN

**Art Unit**

2616

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 3-9, 11-17, 25, 27-33, 35-39 and 48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-9, 11-15, 25, 27-33, 35-39 and 48 is/are rejected.
- 7) ☒ Claim(s) 16 and 17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 October 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/28/08 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1, 3-9, 11-27, 25, 27-33, 35-39 and 48 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1, 5-9, 11-14, 25, 29-33, 35-36 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eng et al. (US 5,751,708) in view of Eggleston et al. (US 5,764,899).

For claims 1, 5, 7 and 8, Eng et al. disclose access method for broadband and narrowband networks, comprising:

the server apparatus (figure 1A, reference 101, col. 3, line 35) comprising:

a storage unit for storing the contents information file (figure 1A, reference Storage Area 103);

a first transceiver (figure 1A, reference 102, col. 3, lines 50-56) for communication with the terminal apparatus (figure 1A, references 10, 20 and 30) and for receiving the request signal from the terminal apparatus requesting the contents information file (figure 4, reference 402, col. 6, lines 22-25); and

a first controller (figure 1A, reference 101) for scheduling a distribution time period in which the requested contents information file is distributed over a communication line (col. 8, lines 32-34) in accordance with the request signal based on a state of the communication line and for controlling the system for the distribution of the contents information file to the terminal apparatus through the first transceiver in the distribution time period (col. 5, lines 38-50), and

the terminal apparatus (figure 1A, references 10, 20 and 30, col. 3, lines 50-56) comprising:

transmit-request (Xmt\_Req) (col. 5, lines 21-25) for communication with the server apparatus (figure 1A, reference 101); and

generating the request signal for requesting the distribution of the contents information file (col. 4, lines 7-13), for controlling the system for transmission of the requested signal to the server apparatus (figure 1A, reference 101) through the second transceiver (col. 4, lines 7-13), and for controlling the system for reception of the contents information file distributed by the server apparatus in the distribution time period by the server apparatus (col. 5, lines 38-50), wherein

first controller schedules the distribution time period for the distribution and the state of the communication line (col. 6, lines 22-31).

However, Eng et al. do not expressly disclose:

a second transceiver, and a second controller, wherein

the request signal comprises a time limit information indicating a deadline for the distribution of the contents information file; and

the first controller schedules the distribution time period based on the deadline for the distribution.

In an analogous art, Eggleston et al. disclose a second transceiver (figure 2, reference 202, col. 5, lines 28-31), and a second controller (figure 2, reference 207, col. 5, lines 20-21), wherein

the request signal comprises a time limit information indicating a deadline (interval means) for the distribution of the contents information file (col. 7, line 64 to col. 8, line 2); and

the first controller schedules the distribution time period based on the deadline (interval means) for the distribution (col. 8, lines 3-15).

Eggleston et al. disclose wherein the first controller of the server apparatus calculates an amount of charge for the distribution of the contents information file based on a length of time until the time limit for the distribution and performs processing for charging the terminal apparatus based on the calculated amount of charge (col. 7, lines 11-16, and col. 15, lines 26-41 as set forth in claim 5), wherein the first controller of the server apparatus calculates an amount of charge for the distribution of the contents information file based on an efficiency of use of a communication resource in communication between the terminal apparatus and the wireless transmission base station and performs processing for charging the terminal apparatus based on the calculated amount of charge (col. 7, lines 11-16, and col. 15, lines 26-41 as set forth in claim 7), and wherein the first controller of the server apparatus calculates cost information indicating communication costs based on the state of the communication line by region, by time band, or by time band for individual regions and controls the system for distribution of the calculated cost information to the terminal apparatus; the second controller of the terminal apparatus generates the request signal comprising a signal including distribution information designating a desired region or desired time band or both for the distribution of the contents information file; and the server

apparatus schedules the system for the distribution of the contents information file to the designated region and time band based on the request signal (col. 14, lines 2-10 as set forth in claim 8).

One skilled in the art would have recognized the second transceiver, and the second controller, and would have applied Eggleston et al.'s case client 201 in Eng et al.'s end user device. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Eggleston et al.'s method and apparatus for communicating an optimized reply in Eng et al.'s access method for broadband and narrowband networks with the motivation being to provide a transceiver (if using rf or infrared communications) and a modulator-demodulator (or modem) 202 to connect to a wireless or wireline communications network (col. 5, lines 28-31).

For claim 6, Eng et al. disclose wherein the second transceiver of the terminal apparatus communicates with the server apparatus through a wireless transmission base station (col. 3, lines 45-53).

For claims 9, 11, 14, 31-32 and 36, Eng et al. disclose access method for broadband and narrowband networks, comprising:

transmit-request (Xmt\_Req) (col. 5, lines 21-25) for communication with the server apparatus (figure 1A, reference 101); and

generating a request signal for requesting the distribution of the contents information file, for controlling the system for transmission of the requested signal to the server apparatus (figure 1A, reference 101)(col. 4, lines 7-13), and controlling the

system for reception of the contents information file distributed by the server apparatus in a distribution time period scheduled by the server apparatus (col. 5, lines 38-50).

However, Eng et al. do not expressly disclose a transceiver, a controller, and wherein the request signal comprises a signal including a time limit information indicating a deadline for the distribution of the content information file. In an analogous art, Eggleston et al. disclose a transceiver (figure 2, reference 202, col. 5, lines 28-31), and a controller (figure 2, reference 207, col. 5, lines 20-21), and wherein the request signal comprises a signal including a time limit information indicating a deadline (intervals means) for the distribution of the content information file (col. 7, line 64 to col. 8, line 2).

Eggleston et al. disclose further comprising an interface for providing information to a user, wherein the controller controls the system for providing the distribution time period to the interface (col. 5, lines 25-26 as set forth in claim 11), wherein the controller controls the system for receiving cost information from the server apparatus and providing to the user through the interface the cost information based on a state of a communication line by region, by time band, or by time band for individual regions (col. 7, lines 14-10 as set forth in claim 14), wherein the server apparatus calculates an amount of charge for the distribution of the contents information file based on an efficiency of use of a communication resource in communication between the terminal apparatus and the wireless communication base station and performs processing for charging the terminal apparatus based on the calculated amount of charge (col. 7, lines 11-16, and col. 15, lines 26-41 as set forth in claim 31), and wherein the server



apparatus calculates cost information indicating communication costs based on the state of the communication line by region, by time band, or by time band for individual regions and controls the system for distribution of the calculated cost information to the terminal apparatus; the terminal apparatus generates the signal request comprising a signal including distribution information designating a region or time band or both for the distribution of the contents information file; and the server apparatus schedules the distribution of the contents information file to the designated region and time band based on the request signal (col. 14, lines 2-10 as set forth in claim 32), and further comprising receiving from the server apparatus cost information indicating communication costs based on a state of a communication line by region or by time band or by time band for individual regions (col. 14, lines 2-10 as set forth in claim 36).

One skilled in the art would have recognized the transceiver, and the controller, and would have applied Eggleston et al.'s case client 201 in Eng et al.'s end user device. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Eggleston et al.'s method and apparatus for communicating an optimized reply in Eng et al.'s access method for broadband and narrowband networks with the motivation being to provide a transceiver (if using rf or infrared communications) and a modulator-demodulator (or modem) 202 to connect to a wireless or wireline communications network (col. 5, lines 28-31).

For claim 12, Eng et al. disclose wherein the transceiver communicates with the server apparatus through a wireless transmission base station (col. 3, lines 45-56).

For claim 13, Eng et al. disclose wherein the controller generates the request signal comprising a signal including distribution information designating a desired region or desired time band or both for the distribution of the contents information file (col. 5, lines 21-30, and col. 6, lines 14-18).

For claims 25 and 29, Eng et al. disclose access method for broadband and narrowband networks, comprising:

generating, in the terminal apparatus (figure 1, references 10, 20, and 30) a request signal requesting distribution of the contents information file (col. 4, lines 7-13);

transmitting the request signal from the terminal apparatus to the server apparatus (figure 1A, reference 101, col. 4, lines 7-13);

scheduling, in the server apparatus a distribution time period for the distribution over a communication line (col. 8, lines 32-34) in accordance with the request signal (col. 5, lines 38-50);

distributing the contents information file from the server apparatus to the terminal apparatus in the distribution time period (col. 5, lines 38-50); and

receiving, in the terminal apparatus, the contents information file distributed from the server apparatus (col. 5, lines 38-50), wherein

the distribution time period is scheduled based on a state of the communication line (col. 6 lines 22-31).

However, Eng et al. do not expressly disclose wherein the request signal included time limit information indicating a deadline for the distribution of the contents information file. In an analogous art, Eggleston et al. disclose wherein the request signal

included time limit information indicating a deadline for the distribution of the contents information file (col. 7, line 64 to col. 8, line 2); wherein the server apparatus calculates an amount of charge for the distribution of the content information file based on a length of time until the time limit for the distribution and performs processing for charging the terminal apparatus based on the calculated amount of charge (col. 7 lines 11-16, and col. 15 lines 26-41 as set forth in claim 29).

One skilled in the art would have recognized the wherein the request signal included time limit information indicating a deadline for the distribution of the contents information file, and would have applied Eggleston et al.'s case client 201 in Eng et al.'s end user device. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Eggleston et al.'s method and apparatus for communicating an optimized reply in Eng et al.'s access method for broadband and narrowband networks with the motivation being to provide the client profile (col. 8, lines 1-2).

For claim 30, Eng et al. disclose wherein the terminal apparatus communicates with the server apparatus through a wireless transmission base station (col. 3, lines 45-53).

For claim 33, Eng et al. disclose access method for broadband and narrowband networks, comprising:

generating a request signal requesting the distribution of the contents information file (figure 4, reference step 402, col. 4 lines 7-13, and col. 6 lines 11-18);

transmitting the requested signal to the server apparatus (figure 4, reference step 402, col. 4, lines 7-13, and col. 6, lines 11-18); and

receiving the contents information file distributed by the server apparatus (figure 1A, reference 101) during a distribution time period scheduled by the server apparatus (figure 4, reference steps 404-405, col. 6, lines 22-31).

However, Eng et al. do not expressly disclose the request signal comprising time limit information indicating a deadline for the distribution of the contents information file. In an analogous art, Eggleston et al. disclose the request signal comprising time limit information indicating a deadline for the distribution of the contents information file (col. 7, line 64 to col. 8, line 2).

One skilled in the art would have recognized the request signal comprising time limit information indicating a deadline for the distribution of the contents information file, and would have applied Eggleston et al.'s case client 201 in Eng et al.'s end user device. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Eggleston et al.'s method and apparatus for communicating an optimized reply in Eng et al.'s access method for broadband and narrowband networks with the motivation being to provide the client profile (col. 8, lines 1-2)

For claim 35, Eng et al. disclose further comprising generating the request signal comprising a signal including distribution information designating a desired region or desired time band or both for the distribution of the contents information file (col. 5, lines 21-30).

For claim 48, Eng et al. disclose access method for broadband and narrowband networks, comprising:

the server apparatus (figure 1A, reference 101) comprising:

a storage unit for storing the contents information file (figure 1A, reference Storage Area 103);

a first transceiver (figure 1A, reference 102) for communication with the plurality of terminal apparatuses (figure 1A, references 10, 20, 30) and for receiving a plurality of request signals from the plurality of terminal apparatuses requesting the plurality of contents information files (col. 3, lines 48-58, and col. 6, lines 22-25); and

a first controller (figure 1A, reference 101, col. 8, lines 32-34) for deciding a distribution time schedule that indicates a schedule of a distribution time of each of the plurality of contents information files requested by the plurality of terminal apparatuses based on a state of the communication line and for controlling the system for the distribution of the contents information file to the plurality of terminal apparatuses through the first transceiver base on the distribution time schedule (col. 5, lines 38-50); and

generating the request signal for requesting the distribution of the contents information file (col. 4, lines 7-13), for controlling the system for transmission of the request signal to the server apparatus (figure 1A, reference 101) through the second transceiver (col. 4, lines 7-13), and for controlling the system for reception of the contents information file distributed by the server apparatus based on the distribution time schedule (col. 5, lines 38-50).

However, Eng et al. do not expressly disclose wherein each of the plurality of request signals include time limit information indicating a deadline for the distribution of a contents information file; a second transceiver for communication with the server apparatus; and a second controller. In an analogous art, Eggleston et al. disclose wherein each of the plurality of request signals include time limit information indicating a deadline for the distribution of a contents information file (col. 7, line 64 to col. 8, line 15), a second transceiver for communication with the server apparatus (figure 2, reference 202, col. 5, lines 28-31), and a second controller (figure 2, reference 207, col. 5 lines 20-21).

One skilled in the art would have recognized the wherein each of the plurality of request signals include time limit information indicating a deadline for the distribution of a contents information file, and would have applied Eggleston et al.'s case client 201 in Eng et al.'s end user device. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Eggleston et al.'s method and apparatus for communicating an optimized reply in Eng et al.'s access method for broadband and narrowband networks with the motivation being to provide the client profile (col. 8, lines 1-2).

6. Claims 3-4, 15, 27-28 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eng et al. (US 5,751,708) in view of Eggleston et al. (US 5,764,899) further in view of Aitkenhead et al. (US 5,493,695).

For claims 3-4 and 15, Eng et al. in view of Eggleston et al. do not expressly disclose wherein the first controller of the server apparatus detects a traffic load of the

communication line and distributes the contents information file when the traffic load is small. In an analogous art, Aitkenhead et al. disclose wherein the first controller of the server apparatus detects a traffic load of the communication line and distributes the contents information file when the traffic load is small (col. 3, lines 52-54).

Aitkenhead et al. disclose wherein the terminal apparatus further comprises an interface for providing information to a user, the server apparatus schedules the distribution time period by estimating a period time before the time limit for the distribution when the traffic load of the communication line is small, controls the system for notification of the distribution time period to the terminal apparatus, and schedules the distribution of the contents information file in the distribution time period, and the second controller of the terminal apparatus controls the system for providing the distribution time period to the interface (col. 5, lines 40-41 as set forth in claim 4), and wherein the terminal apparatus controls the system for receiving a period of time from the server apparatus and providing to the interface the period of time before the time limit for the distribution and time band in which a traffic load of a communication line is small (col. 5, lines 40-41 as set forth in claim 15); wherein the server apparatus detects a traffic load of the communication line and schedules the distribution of the contents information file when the traffic load is small (col. 3, lines 52-54 as set forth in claim 27); wherein, when receiving the request signal, the server apparatus schedules the distribution time period by estimating a period of time before the time limit for the distribution when a traffic load of the communication line is small, sends a notification of the distribution time period to the terminal apparatus, and distributes the contents

information file in the distribution time period (col. 5, lines 40-41 as set forth in claim 28), and further comprising providing a user with a period of time before the time limit for the distribution when a traffic load of a communication line is small (col. 5, lines 40-41 as set forth in claim 37).

One skilled in the art would have recognized the wherein the first controller of the server apparatus detects a traffic load of the communication line and distributes the contents information file at a period of time when the traffic load is small, and would have applied Aitkenheadi et al.'s traffic monitoring in Eng et al.'s end user device. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Aitkenheadi et al.'s trunking radio system with frequency diversity in Eng et al.'s access method for broadband and narrowband networks with the motivation being to provide the traffic monitoring means 25 of the controller to determine that there is more than one channel available for allocation (col. 3, lines 50-52).

7. Claims 38-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eng et al. (US 5,751,708) in view of Eggleston et al. (US 5,764,899) further in view of Baptist et al. (US 5,465,392).

For claims 38-39, Eng et al. disclose further comprising the steps of:  
internally measuring time (col. 6, lines 14-18);  
receiving the distribution time period from the server apparatus (col. 5, lines 38-50) and



reception of the contents information file distributed from the server apparatus near the distribution time period based on the distribution time period and the internally measured (col. 5, lines 38-50).

However, Eng et al. in view of Eggleston et al. do not expressly disclose controlling a power supply of a receiver. In an analogous art, Baptist et al. disclose controlling a power supply of a receiver (col. 3, lines 27-29, and col. 3, lines 39-42).

Baptist et al. disclose further comprising controlling the power supply of the receiver to cut the supply of power to at least part of the receiver when the receiver finishes receiving the contents information file distributed by the server apparatus (col. 3, lines 51-52 as set forth in claim 39).

One skilled in the art would have recognized the power supply of a receiver, and would have applied Baptist et al.'s mobile station 24 in Eng et al.'s end user device. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Baptist et al.'s apparatus and method for operating a wireless local area network having power conservation in Eng et al.'s access method for broadband and narrowband networks with the motivation being to control the wireless transceiver 60 (col. 3, lines 40-44).

***Allowable Subject Matter***

8. Claims 16-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 2616

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to TOAN D. NGUYEN whose telephone number is (571)272-3153. The examiner can normally be reached on M-F (7:00AM-4:30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Firmin Backer can be reached on 571-272-6703. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. D. N./

Examiner, Art Unit 2616

/FIRMIN BACKER/  
Supervisory Patent Examiner, Art Unit 2616